Remarks:

This amendment is submitted in an earnest effort to advance this case to issue without delay.

Transmitted herewith is a Replacement Drawing in which FIG. 1 is appropriately labeled as prior art. The invention is shown in FIG. 2 and FIG. 1 serves to contrast the instant invention with the admitted prior art (APA). No new matter has been added.

As seen by a comparison if FIG. 1 of the instant application and FIG. 12a of Kosako (EP 1,429,408 and US 2004/0209155) the system of Kosako and the admitted prior art are absolutely identical. More particularly:

APA (FIG. 1)	Structure	Kosako (FIG. 12A)
3a	Cath. Diff. Layer	95
3b	Cath. Catalyst layer	96
1	Membrane	91
2b	Anode Catalyst layer	94
2a	Anode diff. layer	93

Thus in the APA and in Kosako the membrane is sandwiched directly between two catalyst layers. This three layer structure is in turn sandwiched between two diffusion layers.

This is in sharp distinction to the instant invention in which claim 8 clearly recites as shown in FIG. 2 of the instant application

> "a diffusion layer (3a) forming a face of the cathode (3) and engaging directly against the electrolyte membrane (1); and
>
> a catalyst layer (3b) forming an opposite face of the cathode (3), turned away from the anode (2), and bounding a free cathode compartment."

Going further, the illustration in FIG. 12B of Kosako shows bumps 99 on the cathode diffusion layer 95 that in fact touch bumps 99 on the anode diffusion layer, so presumably in these regions material can pass through the assembly without going through either the membrane 91 or either of the catalyst layers 94 or 96. How this is supposed to function is anyone's guess, and it clearly does not anticipate the instant invention.

With regard to method claim 4 the critical element of the invention is described as "causing protons produced at the anode to travel through the electrolyte membrane and then through the diffusion layer of the cathode to the catalyst layer." Thus the method claim also clearly defines a system different from that of Kosako.

Thus the rejection under §102 on Kosako is wrong. Kosako does not show a diffusion layer between the cathode catalyst layer and the membrane or a cathode catalyst layer bordering a free cathode compartment; instead in Kosako as shown in FIG. 12a and admitted by the examiner the cathode catalyst layer is between the diffusion layer and the membrane and the diffusion layer presumably borders the cathode compartment. This is a clear-cut structural difference and is nowhere shown or suggested in Kosako.

The novelty of the instant invention was originally recognized by the examiner with the statement in the Office Action of 17 June 2008 that "the prior art does not disclose or suggest the catalyst layer of the cathode is bound directly on the free cathode compartment."

Accordingly allowance of all claims and passage to issue are in order.

If only minor problems that could be corrected by means of a telephone conference stand in the way of allowance of this

case, the examiner is invited to call the undersigned to make the necessary corrections.

K.F. Ross P.C.

/Andrew Wilford/

by: Andrew Wilford, 26,597
Attorney for Applicant

06 January 2009
5683 Riverdale Avenue Box 900
Bronx, NY 10471-0900
Cust. No.: 535
Tel: 718 884-6600
Fax: 718 601-1099
Email: *email@kfrpc.com*

Enclosure:
Replacement Drawing (1 sheet)